

Senate File 406 - Introduced

SENATE FILE 406
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1192)

A BILL FOR

1 An Act relating to involuntary commitments for persons
2 with substance-related disorders, mental illness, and
3 intellectual disabilities, and providing for the creation
4 of an office of mental health advocate in the department of
5 human rights and including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

DEPARTMENTAL RESPONSIBILITY FOR MENTAL HEALTH ADVOCATES

Section 1. NEW SECTION. 216A.171 **Definitions.**

As used in this subchapter, unless the context otherwise requires:

1. "*Administrator*" means the administrator of the office of mental health advocate of the department of human rights.

2. "*Office*" means the office of mental health advocate of the department of human rights.

Sec. 2. NEW SECTION. 216A.172 **Duties of administrator.**

The administrator shall administer the office's conduct of the mental health advocate program as provided by section 229.19 and other applicable law. The administrator's duties may include but are not limited to all of the following:

1. Appointing persons to serve as mental health advocates and other office staff and identifying qualifications for persons serving as a mental health advocate. The minimum qualifications for a mental health advocate whose initial appointment commences on or after July 1, 2013, shall be a bachelor's degree from an accredited school, college, or university in social work, counseling, human services, health, or nursing and one year of experience in the provision of mental health services. A person who is a licensed registered nurse pursuant to chapter 152 who is current with applicable continuing education requirements shall be deemed to have met the minimum experience requirement.

2. Training and supervising office staff.

3. Implementing procedures for appointing, dismissing, and supervising advocates.

4. Administering program additions and expansions, including providing advocate services for persons with a substance-related disorder and persons found not guilty by reason of insanity, if such additions or expansions are authorized and funded.

5. Developing and implementing a case weight system for use

1 in appointing and compensating advocates.

2 6. Administering case reviews and audits.

3 Sec. 3. TRANSITION.

4 1. The department of human rights shall commence
5 organizational activities during the fiscal year beginning July
6 1, 2013, as necessary to fully implement this division and
7 assume responsibility for mental health advocates as provided
8 in this division and division II of this Act on July 1, 2014.

9 2. If necessary for the purposes of subsection 1, the
10 department of human rights may adopt emergency rules under
11 section 17A.4, subsection 3, and section 17A.5, subsection 2,
12 paragraph "b", to implement the provisions of division II of
13 this Act on July 1, 2014, and the rules shall be effective
14 immediately upon filing unless a later date is specified in the
15 rules. Any rules adopted in accordance with this section shall
16 also be published as a notice of intended action as provided
17 in section 17A.4.

18 DIVISION II

19 IMPLEMENTATION — MENTAL HEALTH ADVOCATES

20 Sec. 4. Section 225C.4, subsection 1, paragraph m, Code
21 2013, is amended to read as follows:

22 *m.* Provide consultation and technical assistance to
23 patients' mental health advocates appointed pursuant to
24 section 229.19, in cooperation with the judicial branch and
25 the department of human rights, and to the resident advocate
26 committees appointed for health care facilities pursuant to
27 section 135C.25.

28 Sec. 5. Section 226.31, Code 2013, is amended to read as
29 follows:

30 **226.31 Examination by court — notice.**

31 Before granting the order authorized in section 226.30
32 the court or judge shall investigate the allegations of the
33 petition and before proceeding to a hearing on the allegations
34 shall require notice to be served on the attorney who
35 represented the patient in any prior proceedings under sections

1 229.6 to 229.15 ~~or the~~ and to any mental health advocate
2 appointed for the patient under section 229.19, or in the case
3 of a patient who entered the hospital voluntarily, on any
4 relative, friend, or guardian of the person in question of the
5 filing of the application. At the hearing the court or judge
6 shall appoint a guardian ad litem for the person, if the court
7 or judge deems such action necessary to protect the rights
8 of the person. The guardian ad litem shall be a practicing
9 attorney.

10 Sec. 6. Section 229.2, subsection 1, paragraph b,
11 subparagraph (6), Code 2013, is amended to read as follows:

12 (6) Upon approval of the admission of a minor over the
13 minor's objections, the juvenile court shall notify the office
14 of mental health advocate of the department of human rights and
15 the office shall appoint an individual to act as ~~an~~ the mental
16 health advocate representing the interests of ~~for~~ the minor ~~in~~
17 ~~the same manner as an advocate representing the interests of~~
18 ~~patients involuntarily hospitalized pursuant to~~ in accordance
19 with section 229.19.

20 Sec. 7. Section 229.9A, Code 2013, is amended to read as
21 follows:

22 **229.9A Advocate Mental health advocate informed — hearings.**

23 The court shall direct the clerk to furnish the office of
24 the mental health advocate of the respondent's county of legal
25 settlement designated for the court by the department of human
26 rights with a copy of application and any order issued pursuant
27 to section 229.8, subsection 3. The mental health advocate
28 designated for the court may attend ~~the hospitalization any~~
29 court hearing of any involving the respondent ~~for whom the~~
30 ~~advocate has received notice of a hospitalization hearing.~~

31 Sec. 8. Section 229.12, subsection 2, Code 2013, is amended
32 to read as follows:

33 2. All persons not necessary for the conduct of the
34 proceeding shall be excluded, except that the court may admit
35 persons having a legitimate interest in the proceeding and

1 shall permit the mental health advocate from the respondent's
2 county of legal settlement designated for the court by the
3 department of human rights to attend the hearing. Upon motion
4 of the county attorney, the judge may exclude the respondent
5 from the hearing during the testimony of any particular witness
6 if the judge determines that witness's testimony is likely to
7 cause the respondent severe emotional trauma.

8 Sec. 9. Section 229.14A, subsection 1, Code 2013, is amended
9 to read as follows:

10 1. With respect to a chief medical officer's report made
11 pursuant to section 229.14, subsection 1, paragraph "b", "c",
12 or "d", or any other provision of this chapter related to
13 involuntary commitment for which the court issues a placement
14 order or a transfer of placement is authorized, the court shall
15 provide notice to the respondent, and the respondent's attorney
16 or, and any mental health advocate appointed for the respondent
17 pursuant to section 229.19 concerning the placement order
18 and the respondent's right to request a placement hearing to
19 determine if the order for placement or transfer of placement
20 is appropriate.

21 Sec. 10. Section 229.14A, subsection 5, paragraph c, Code
22 2013, is amended to read as follows:

23 c. If the respondent's attorney has withdrawn pursuant to
24 ~~section 229.19~~, the court shall appoint an attorney for the
25 respondent in the manner described in section 229.8, subsection
26 1.

27 Sec. 11. Section 229.15, subsection 6, Code 2013, is amended
28 to read as follows:

29 6. Upon receipt of any report required or authorized by
30 this section the court shall furnish a copy to the patient's
31 attorney, ~~or alternatively~~ and to the mental health advocate
32 appointed as required by section 229.19 for the patient. The
33 court shall examine the report and take the action thereon
34 which it deems appropriate. Should the court fail to receive
35 any report required by this section or section 229.14 at the

1 time the report is due, the court shall investigate the reason
2 for the failure to report and take whatever action may be
3 necessary in the matter.

4 Sec. 12. Section 229.19, Code 2013, is amended to read as
5 follows:

6 **229.19 Advocates Mental health advocates — duties —**
7 **compensation — state and county liability.**

8 1. ~~a. In each county with a population of three hundred~~
9 ~~thousand or more inhabitants the board of supervisors shall~~
10 ~~appoint an individual who has demonstrated by prior activities~~
11 ~~an informed concern for the welfare and rehabilitation of~~
12 ~~persons with mental illness, and who is not an officer or~~
13 ~~employee of the department of human services nor of any agency~~
14 ~~or facility providing care or treatment to persons with mental~~
15 ~~illness, to act as an advocate representing the interests of~~
16 ~~patients involuntarily hospitalized by the court, in any matter~~
17 ~~relating to the patients' hospitalization or treatment under~~
18 ~~section 229.14 or 229.15. In each county with a population of~~
19 ~~under three hundred thousand inhabitants, the chief judge of~~
20 ~~the judicial district encompassing the county shall appoint the~~
21 ~~advocate. For the purposes of this section, "office" means the~~
22 ~~office of mental health advocate of the department of human~~
23 ~~rights.~~

24 ~~b. The court or, if the advocate is appointed by the county~~
25 ~~board of supervisors, the board shall assign the advocate~~
26 ~~appointed from a patient's county of legal settlement to~~
27 ~~represent the interests of the patient. If a patient has~~
28 ~~no county of legal settlement, the court or, if the advocate~~
29 ~~is appointed by the county board of supervisors, the board~~
30 ~~shall assign the advocate appointed from the county where the~~
31 ~~hospital or facility is located to represent the interests of~~
32 ~~the patient.~~

33 ~~c. The advocate's responsibility with respect to any patient~~
34 ~~shall begin at whatever time the attorney employed or appointed~~
35 ~~to represent that patient as respondent in hospitalization~~

1 ~~proceedings, conducted under sections 229.6 to 229.13, reports~~
 2 ~~to the court that the attorney's services are no longer~~
 3 ~~required and requests the court's approval to withdraw as~~
 4 ~~counsel for that patient. However, if~~
 5 b. If the patient is found to be seriously mentally impaired
 6 at the hospitalization hearing, the attorney representing the
 7 patient shall automatically be relieved of responsibility in
 8 the case and an mental health advocate shall be assigned to
 9 appointed for the patient at the conclusion of the hearing
 10 unless the attorney indicates an intent to continue the
 11 attorney's services and. The court shall notify the office of
 12 the court's finding and the office shall appoint an advocate
 13 for the patient. The advocate's responsibility with respect
 14 to a patient shall begin when the advocate is appointed for
 15 the patient. The attorney representing the patient shall
 16 automatically be relieved of responsibility at the conclusion
 17 of the hearing unless the attorney requests to continue
 18 representation and the court so directs authorizes the attorney
 19 to remain on the case. If the court directs the attorney to
 20 remain on the case, the attorney shall assume all the duties
 21 of an advocate cooperate with the advocate appointed for the
 22 patient. The clerk shall furnish the advocate with a copy of
 23 the court's order approving the withdrawal or continuation of
 24 the attorney and shall inform the patient of the name of the
 25 patient's advocate.

26 ~~d. c.~~ c. With regard to each patient whose interests the
 27 for whom a mental health advocate is ~~required to represent~~
 28 appointed pursuant to this section, the advocate's duties shall
 29 include all of the following:

30 (1) To review each report submitted pursuant to sections
 31 229.14 and 229.15.

32 (2) ~~If the advocate is not an attorney, to~~ To advise the
 33 court at any time it appears that the services of an attorney
 34 are required to properly safeguard the patient's interests.

35 (3) To be readily accessible to communications from the

1 patient and to originate communications with the patient within
2 five days of the patient's commitment.

3 (4) To visit the patient within fifteen days of the
4 patient's commitment and periodically thereafter.

5 (5) To communicate with medical personnel treating the
6 patient and to review the patient's medical records pursuant
7 to section 229.25.

8 (6) To file with the court and the office quarterly reports,
9 and additional reports as the advocate feels necessary or as
10 required by the ~~court~~ office, in a form prescribed by the ~~court~~
11 office. The reports shall state what actions the advocate
12 has taken with respect to each patient and the amount of time
13 spent.

14 (7) To utilize the related best practices for the duties
15 identified in this paragraph ~~"d"~~ "c" developed and promulgated
16 by the judicial council.

17 ~~e.~~ d. ~~An~~ Subject to the availability of funding
18 appropriated for this purpose, a mental health advocate may
19 also be appointed pursuant to this section for an individual
20 who has been diagnosed with a co-occurring mental illness and
21 ~~substance-related~~ substance-related disorder.

22 2. The hospital or facility to which a patient is committed
23 shall grant all reasonable requests of the patient's mental
24 health advocate to visit the patient, to communicate with
25 medical personnel treating the patient, and to review the
26 patient's medical records pursuant to section 229.25. An
27 advocate shall not disseminate information from a patient's
28 medical records to any other person unless done for official
29 purposes in connection with the advocate's duties pursuant to
30 this chapter or when required by law.

31 3. ~~The court or, if the advocate is appointed by the county~~
32 ~~board of supervisors, the board~~ office shall ~~prescribe~~ provide
33 reasonable compensation for the services of the advocate in
34 accordance with section 216A.172. ~~The compensation shall be~~
35 ~~based upon the reports filed by the advocate with the court.~~

1 ~~The advocate's compensation shall be paid by the county in~~
2 ~~which the court is located, either on order of the court or, if~~
3 ~~the advocate is appointed by the county board of supervisors,~~
4 ~~on the direction of the board. If the advocate is appointed~~
5 ~~by the court, the advocate is an employee of the state for~~
6 ~~purposes of chapter 669. If the advocate is appointed by the~~
7 ~~county board of supervisors, the advocate is an employee of~~
8 ~~the county for purposes of chapter 670. If the patient or~~
9 ~~the person who is legally liable for the patient's support~~
10 ~~is not indigent, the board office shall recover the costs of~~
11 ~~compensating the advocate from that person. If that person~~
12 ~~has an income level as determined pursuant to section 815.9~~
13 ~~greater than one hundred percent but not more than one hundred~~
14 ~~fifty percent of the poverty guidelines, at least one hundred~~
15 ~~dollars of the advocate's compensation shall be recovered in~~
16 ~~the manner prescribed by the county board of supervisors.~~
17 ~~If that person has an income level as determined pursuant~~
18 ~~to section 815.9 greater than one hundred fifty percent of~~
19 ~~the poverty guidelines, at least two hundred dollars of the~~
20 ~~advocate's compensation shall be recovered in substantially the~~
21 ~~same manner prescribed by the county board of supervisors as~~
22 ~~provided in section 815.9.~~

23 Sec. 13. Section 229.25, subsection 1, paragraph a,
24 subparagraph (1), Code 2013, is amended to read as follows:

25 (1) The information is requested by a licensed physician,
26 attorney, or the mental health advocate who provides appointed
27 for the person. The requester must provide the chief medical
28 officer with a written waiver signed by the person about whom
29 the information is sought.

30 Sec. 14. TRANSITION OF EMPLOYEE RIGHTS OF FORMER COUNTY
31 EMPLOYEES.

32 1. If appointed by the administrator of the office of mental
33 health advocate of the department of human rights pursuant
34 to section 216A.172, county employees paid for mental health
35 advocate services under section 229.19 shall become employees

1 of the department of human rights effective July 1, 2014, and
2 the department shall assume all costs associated with the
3 functions of the employees on that date. Employees who were
4 paid salaries by the counties immediately prior to becoming
5 state employees as a result of this Act shall not forfeit
6 accrued vacation, accrued sick leave, or benefits related to
7 longevity of service, except as provided in this section.

8 2. The department of inspections and appeals, after
9 consulting with the department of administrative services,
10 shall adopt rules to provide for the following:

11 a. A person referred to in subsection 1 shall have to the
12 person's credit as a state employee commencing on the date of
13 becoming a state employee the number of accrued vacation days
14 that was credited to the person as a county employee as of the
15 end of the day prior to becoming a state employee.

16 b. Each person referred to in subsection 1 shall have to
17 the person's credit as a state employee commencing on the
18 date of becoming a state employee the number of accrued days
19 of sick leave that was credited to the person as a county
20 employee as of the end of the day prior to becoming a state
21 employee. However, the number of days of sick leave credited
22 to a person under this subsection and eligible to be taken
23 when sick or eligible to be received upon retirement shall not
24 respectively exceed the maximum number of days, if any, or the
25 maximum dollar amount as provided in section 70A.23 that state
26 employees generally are entitled to accrue or receive according
27 to rules in effect as of the date the person becomes a state
28 employee.

29 c. Commencing on the date of becoming a state employee, each
30 person referred to in subsection 1 is entitled to claim the
31 person's most recent continuous period of service in full-time
32 county employment as full-time state employment for purposes
33 of determining the number of days of vacation which the person
34 is entitled to earn each year. The actual vacation benefit,
35 including the limitation on the maximum accumulated vacation

1 leave, shall be determined as provided in section 70A.1
2 according to rules in effect for state employees of comparable
3 longevity, irrespective of any greater or lesser benefit as a
4 county employee.

5 3. Persons referred to in subsection 1 who were covered
6 by county employee life insurance and accident and health
7 insurance plans prior to becoming state employees in accordance
8 with this section shall be permitted to apply prior to becoming
9 state employees for life insurance and health and accident
10 insurance plans that are available to state employees so that
11 those persons do not suffer a lapse of insurance coverage as a
12 result of this section. The department of human rights, after
13 consulting with the department of administrative services,
14 shall prescribe rules and distribute application forms and
15 take other actions as necessary to enable those persons to
16 elect to have insurance coverage that is in effect on the date
17 of becoming state employees. The actual insurance coverage
18 available to a person shall be determined by the plans that are
19 available to state employees, irrespective of any greater or
20 lesser benefits that may have been available to the person as
21 a county employee.

22 4. Commencing on the date of becoming a state employee, each
23 person referred to in subsection 1 is entitled to claim the
24 person's most recent continuous period of service in full-time
25 county employment as full-time state employment for purposes of
26 determining disability benefits as provided in section 70A.20
27 according to rules in effect for state employees of comparable
28 longevity, irrespective of any greater or lesser benefit that
29 may have been available to the person as a county employee.

30 Sec. 15. EFFECTIVE DATE. This division of this Act takes
31 effect July 1, 2014.

32 DIVISION III

33 INVOLUNTARY COMMITMENTS — PERSONS WITH INTELLECTUAL
34 DISABILITIES

35 Sec. 16. Section 48A.2, subsection 3, Code 2013, is amended

1 to read as follows:

2 3. "*Person who is incompetent to vote*" means a person with an
3 intellectual disability who has been found to lack the mental
4 capacity to vote in a proceeding held pursuant to section
5 ~~222.31~~ or 633.556.

6 Sec. 17. Section 222.6, Code 2013, is amended to read as
7 follows:

8 **222.6 State districts.**

9 The administrator shall divide the state into two districts
10 in such manner that one of the resource centers shall be
11 located within each of the districts. Such districts may
12 from time to time be changed. After such districts have
13 been established, the administrator shall notify all boards
14 of supervisors, county auditors, and clerks of the district
15 courts of the action. Thereafter, unless the administrator
16 otherwise orders, all admissions ~~or commitments~~ of persons with
17 an intellectual disability from a district shall be to the
18 resource center located within such district.

19 Sec. 18. Section 222.12, subsection 2, Code 2013, is amended
20 to read as follows:

21 2. Notice of the death of the patient, and the cause of
22 death, shall be sent to the county board of supervisors ~~and to~~
23 ~~the judge of the court that had jurisdiction over a committed~~
24 ~~patient~~. The fact of death with the time, place, and alleged
25 cause shall be entered upon the docket of the court.

26 Sec. 19. Section 222.15, subsection 3, Code 2013, is amended
27 by striking the subsection.

28 Sec. 20. Section 222.59, subsection 3, Code 2013, is amended
29 by striking the subsection.

30 Sec. 21. Section 222.60, subsection 1, unnumbered paragraph
31 1, Code 2013, is amended to read as follows:

32 All necessary and legal expenses for the cost of admission
33 ~~or commitment~~ or for the treatment, training, instruction,
34 care, habilitation, support and transportation of persons with
35 an intellectual disability, as provided for in the county

1 management plan provisions implemented pursuant to section
2 331.439, subsection 1, in a state resource center, or in a
3 special unit, or any public or private facility within or
4 without the state, approved by the director of the department
5 of human services, shall be paid by either:

6 Sec. 22. Section 222.61, Code 2013, is amended to read as
7 follows:

8 **222.61 Legal settlement determined.**

9 When a county receives an application on behalf of any person
10 for admission to a resource center or a special unit ~~or when~~
11 ~~a court issues an order committing any person to a resource~~
12 ~~center or a special unit,~~ the board of supervisors shall
13 utilize the central point of coordination process to determine
14 and certify that the legal settlement of the person is in one
15 of the following:

16 1. In the county in which the application is received ~~or~~
17 ~~court is located.~~

18 2. In some other county of the state.

19 3. In another state or in a foreign country.

20 4. Unknown.

21 Sec. 23. Section 222.64, Code 2013, is amended to read as
22 follows:

23 **222.64 Foreign state or country or unknown legal settlement.**

24 If the legal settlement of the person is determined by the
25 board of supervisors through the central point of coordination
26 process to be in a foreign state or country or is determined
27 to be unknown, the board of supervisors shall certify the
28 determination to the administrator. The certification shall
29 be accompanied by a copy of the evidence supporting the
30 determination. The care of the person shall be as arranged by
31 the board of supervisors or by an order as the court may enter.
32 Application for admission ~~or order of commitment~~ may be made
33 pending investigation by the administrator.

34 Sec. 24. Section 222.67, Code 2013, is amended to read as
35 follows:

1 **222.67 Charge on finding of settlement.**

2 If a person has been received into a resource center or a
3 special unit as a patient whose legal settlement is supposedly
4 outside the state or is unknown and the administrator
5 determines that the legal settlement of the patient was at the
6 time of admission ~~or commitment~~ in a county of this state,
7 the administrator shall certify the determination and charge
8 all legal costs and expenses pertaining to the admission ~~or~~
9 ~~commitment~~ and support of the patient to the county of legal
10 settlement. The certification shall be sent to the county
11 of legal settlement. The certification shall be accompanied
12 by a copy of the evidence supporting the determination. If
13 the person's legal settlement status has been determined in
14 accordance with section 225C.8, the legal costs and expenses
15 shall be charged to the county or as a state case in accordance
16 with that determination. The costs and expenses shall be
17 collected as provided by law in other cases.

18 Sec. 25. Section 222.68, Code 2013, is amended to read as
19 follows:

20 **222.68 Costs paid in first instance.**

21 All necessary and legal expenses for the cost of admission ~~or~~
22 ~~commitment~~ of a person to a resource center or a special unit
23 when the person's legal settlement is found to be in another
24 county of this state shall in the first instance be paid by the
25 county from which the person was admitted ~~or committed~~. The
26 county of legal settlement shall reimburse the county which
27 pays for all such expenses. Where any county fails to make
28 such reimbursement within forty-five days following submission
29 of a properly itemized bill to the county of legal settlement,
30 a penalty of not greater than one percent per month on and
31 after forty-five days from submission of the bill may be added
32 to the amount due.

33 Sec. 26. Section 222.69, Code 2013, is amended to read as
34 follows:

35 **222.69 Payment by state.**

1 All necessary and legal expenses for the cost of admission
2 ~~or commitment~~ of a person to a resource center or a special
3 unit when the person's legal settlement is outside this state
4 or is unknown shall be paid out of any money in the state
5 treasury not otherwise appropriated. Such payments shall be
6 made on itemized vouchers executed by the auditor of the county
7 from which the expenses have been paid and approved by the
8 administrator.

9 Sec. 27. Section 222.70, Code 2013, is amended to read as
10 follows:

11 **222.70 Legal settlement disputes.**

12 If a dispute arises between counties or between the
13 department and a county as to the legal settlement of a person
14 admitted ~~or committed~~ to a resource center, a special unit, or
15 a community-based service, the dispute shall be resolved as
16 provided in section 225C.8.

17 Sec. 28. Section 222.78, Code 2013, is amended to read as
18 follows:

19 **222.78 Parents and others liable for support.**

20 The father and mother of any patient admitted ~~or committed~~ to
21 a resource center or to a special unit, as either an inpatient
22 or an outpatient, and any person, firm, or corporation bound
23 by contract made for support of the patient are liable for the
24 support of the patient. The patient and those legally bound
25 for the support of the patient shall be liable to the county
26 for all sums advanced by the county to the state under the
27 provisions of sections 222.60 and 222.77. The liability of
28 any person, other than the patient, who is legally bound for
29 the support of a patient who is under eighteen years of age
30 in a resource center or a special unit shall not exceed the
31 average minimum cost of the care of a normally intelligent
32 minor without a disability of the same age and sex as the
33 minor patient. The administrator shall establish the scale
34 for this purpose but the scale shall not exceed the standards
35 for personal allowances established by the state division

1 under the family investment program. The father or mother
 2 shall incur liability only during any period when the father
 3 or mother either individually or jointly receive a net income
 4 from whatever source, commensurate with that upon which they
 5 would be liable to make an income tax payment to this state.
 6 The father or mother of a patient shall not be liable for the
 7 support of the patient upon the patient attaining eighteen
 8 years of age. Nothing in this section shall be construed to
 9 prevent a relative or other person from voluntarily paying the
 10 full actual cost as established by the administrator for caring
 11 for the patient with an intellectual disability.

12 Sec. 29. Section 222.80, Code 2013, is amended to read as
 13 follows:

14 **222.80 Liability to county.**

15 A person admitted ~~or committed~~ to a county institution
 16 or home or admitted ~~or committed~~ at county expense to a
 17 private hospital, sanitarium, or other facility for treatment,
 18 training, instruction, care, habilitation, and support as a
 19 patient with an intellectual disability shall be liable to the
 20 county for the reasonable cost of the support as provided in
 21 section 222.78.

22 Sec. 30. Section 222.91, Code 2013, is amended to read as
 23 follows:

24 **222.91 Direct referral to special unit.**

25 In addition to any other manner of referral, or admission, ~~or~~
 26 ~~commitment~~ to the special unit provided for by this chapter,
 27 persons may be referred directly to the special unit by courts,
 28 law enforcement agencies, or state penal or correctional
 29 institutions for services under ~~subsection 2 of~~ section 222.88,
 30 subsection 2, but persons so referred shall not be admitted
 31 ~~or committed~~ unless a preadmission diagnostic evaluation
 32 indicates that the person would benefit from such services,
 33 and the admission ~~or commitment~~ of the person to the special
 34 unit would not cause the special unit's patient load to exceed
 35 its capacity.

1 Sec. 31. Section 232.51, Code 2013, is amended to read as
2 follows:

3 **232.51 Disposition of child with mental illness ~~or an~~**
4 **~~intellectual disability.~~**

5 1. If the evidence received at an adjudicatory or a
6 dispositional hearing indicates that the child is mentally
7 ill, the court may direct the juvenile court officer or the
8 department to initiate proceedings or to assist the child's
9 parent or guardian to initiate civil commitment proceedings in
10 the juvenile court and such proceedings in the juvenile court
11 shall adhere to the requirements of chapter 229.

12 ~~2. If the evidence received at an adjudicatory or a~~
13 ~~dispositional hearing indicates that the child has an~~
14 ~~intellectual disability, the court may direct the juvenile~~
15 ~~court officer or the department to initiate proceedings~~
16 ~~or to assist the child's parent or guardian to initiate~~
17 ~~civil commitment proceedings in the juvenile court and such~~
18 ~~proceedings shall adhere to the requirements of chapter 222.~~

19 ~~3.~~ 2. *a.* If prior to the adjudicatory or dispositional
20 hearing on the pending delinquency petition, the child is
21 committed as a child with a mental illness ~~or an intellectual~~
22 ~~disability~~ and is ordered into a residential facility,
23 institution, or hospital for inpatient treatment, the
24 delinquency proceeding shall be suspended until such time as
25 the juvenile court either terminates the civil commitment
26 order or the child is released from the residential facility,
27 institution, or hospital for purposes of receiving outpatient
28 treatment.

29 *b.* During any time that the delinquency proceeding is
30 suspended pursuant to this subsection, any time limits for
31 speedy adjudicatory hearings and continuances shall be tolled.

32 *c.* This subsection shall not apply to waiver hearings held
33 pursuant to section 232.45.

34 Sec. 32. Section 331.756, subsection 42, Code 2013, is
35 amended by striking the subsection.

1 Sec. 33. Section 602.8102, subsections 36 and 37, Code 2013,
2 are amended by striking the subsections.

3 Sec. 34. REPEAL. Sections 222.16 through 222.33, sections
4 222.36 through 222.49, section 222.51, and sections 222.54
5 through 222.58, Code 2013, are repealed.

6 Sec. 35. EFFECTIVE DATE. This division of this Act takes
7 effect July 1, 2014.

8 DIVISION IV

9 INVOLUNTARY COMMITMENTS —

10 SUBSTANCE-RELATED DISORDERS AND MENTAL ILLNESS

11 Sec. 36. NEW SECTION. **125.74A Preapplication screening**
12 **assessment — program.**

13 Prior to filing an application pursuant to section 125.75,
14 the clerk of the district court or the clerk's designee shall
15 inform the interested person referred to in section 125.75
16 about the option of requesting a preapplication screening
17 assessment through a preapplication screening assessment
18 program, if available. The state court administrator shall
19 prescribe practices and procedures for implementation of the
20 preapplication screening assessment program.

21 Sec. 37. Section 125.75, Code 2013, is amended to read as
22 follows:

23 ~~125.75 Involuntary commitment or treatment — application~~
24 Application.

25 1. Proceedings for the involuntary commitment or treatment
26 of a person with a substance-related disorder to a facility
27 pursuant to this chapter or for the involuntary hospitalization
28 of a person pursuant to chapter 229 may be commenced by
29 ~~the county attorney or an~~ any interested person by filing a
30 verified application with the clerk of the district court of
31 the county where the respondent is presently located or which
32 is the respondent's place of residence. The clerk or the
33 clerk's designee shall assist the applicant in completing the
34 application.

35 2. The application shall:

1 ~~1.~~ a. State the applicant's belief that the respondent is a
2 person with a substance-related disorder, who presents a danger
3 to self or others and lacks judgmental capacity due to either
4 of the following:

5 (1) A substance-related disorder as defined in section
6 125.2.

7 (2) A serious mental impairment as defined in section 229.1.

8 ~~2.~~ b. State any other pertinent facts in support of each
9 belief described in paragraph "a".

10 ~~3.~~ c. Be accompanied by one or more of the following:

11 ~~a.~~ (1) A written statement of a licensed physician in
12 support of the application.

13 ~~b.~~ (2) One or more supporting affidavits corroborating the
14 application.

15 ~~c.~~ (3) Corroborative information obtained and reduced to
16 writing by the clerk or the clerk's designee, but only when
17 circumstances make it infeasible to obtain, or when the clerk
18 considers it appropriate to supplement, the information under
19 either paragraph "a" subparagraph (1) or paragraph "b" (2).

20 3. Prior to the filing of an application pursuant to this
21 section, the clerk or the clerk's designee shall inform the
22 interested person referred to in subsection 1 about the option
23 of requesting a preapplication screening assessment pursuant
24 to section 125.74A.

25 4. The supreme court shall prescribe rules and establish
26 forms as necessary to carry out the provisions of this section.

27 Sec. 38. Section 125.75A, Code 2013, is amended to read as
28 follows:

29 **125.75A Involuntary commitment or treatment of proceedings —**
30 **minors — jurisdiction.**

31 The juvenile court has exclusive original jurisdiction in
32 proceedings concerning a minor for whom an application for
33 involuntary commitment or treatment is filed under section
34 125.75. In proceedings under this division concerning a
35 minor's involuntary commitment or treatment, the term "court",

1 "judge", or "clerk" means the juvenile court, judge, or clerk.

2 Sec. 39. Section 125.77, Code 2013, is amended to read as
3 follows:

4 **125.77 Service of notice.**

5 Upon the filing of an application ~~for involuntary commitment~~
6 pursuant to section 125.75, the clerk shall docket the case
7 and immediately notify a district court judge, a district
8 associate judge, or magistrate who is admitted to the practice
9 of law in this state, who shall review the application and
10 accompanying documentation. The clerk shall send copies of
11 the application and supporting documentation, together with
12 the notice informing the respondent of the procedures required
13 by this division, to the sheriff, for immediate service upon
14 the respondent. If the respondent is taken into custody under
15 section 125.81, service of the application, documentation,
16 and notice upon the respondent shall be made at the time the
17 respondent is taken into custody.

18 Sec. 40. Section 125.78, unnumbered paragraph 1, Code 2013,
19 is amended to read as follows:

20 As soon as practical after the filing of an application ~~for~~
21 ~~involuntary commitment or treatment~~ pursuant to section 125.75,
22 the court shall:

23 Sec. 41. Section 125.79, Code 2013, is amended to read as
24 follows:

25 **125.79 Respondent's attorney informed.**

26 The court shall direct the clerk to furnish at once to
27 the respondent's attorney, copies of the application ~~for~~
28 ~~involuntary commitment of the respondent~~ pursuant to section
29 125.75 and the supporting documentation, and of the court's
30 order issued pursuant to section 125.78, subsection 3. If the
31 respondent is taken into custody under section 125.81, the
32 attorney shall also be advised of that fact. The respondent's
33 attorney shall represent the respondent at all stages of the
34 proceedings and shall attend the commitment hearing.

35 Sec. 42. Section 229.5, Code 2013, is amended to read as

1 follows:

2 **229.5 Departure without notice.**

3 If a voluntary patient departs from the hospital without
4 notice, and in the opinion of the chief medical officer the
5 patient is seriously mentally impaired, the chief medical
6 officer may file an application ~~for involuntary hospitalization~~
7 of on the departed voluntary patient pursuant to section 229.6,
8 and request that an order for immediate custody be entered by
9 the court pursuant to section 229.11.

10 Sec. 43. Section 229.5A, Code 2013, is amended to read as
11 follows:

12 **229.5A Preapplication screening assessment — program.**

13 Prior to filing an application ~~for involuntary~~
14 ~~hospitalization~~ pursuant to section 229.6, the clerk of
15 the district court or the clerk's designee shall inform the
16 interested person referred to in section 229.6, subsection
17 1, about the option of requesting a preapplication screening
18 assessment through a preapplication screening assessment
19 program, if available. The state court administrator shall
20 prescribe practices and procedures for implementation of the
21 preapplication screening assessment program.

22 Sec. 44. Section 229.6, Code 2013, is amended to read as
23 follows:

24 **229.6 Application for order of involuntary hospitalization.**

25 1. Proceedings for the involuntary hospitalization of an
26 individual pursuant to this chapter or for the involuntary
27 commitment or treatment of a person with a substance-related
28 disorder to a facility pursuant to chapter 125 may be commenced
29 by any interested person by filing a verified application
30 with the clerk of the district court of the county where the
31 respondent is presently located, or which is the respondent's
32 place of residence. The clerk, or the clerk's designee, shall
33 assist the applicant in completing the application.

34 2. The application shall:

35 a. State the applicant's belief that the respondent is

1 ~~seriously mentally impaired.~~ a person who presents a danger to
2 self or others and lacks judgmental capacity due to either of
3 the following:

4 (1) A substance-related disorder as defined in section
5 125.2.

6 (2) A serious mental impairment as defined in section 229.1.

7 b. State any other pertinent facts in support of each belief
8 described in paragraph "a".

9 c. Be accompanied by any of the following:

10 (1) A written statement of a licensed physician in support
11 of the application.

12 (2) One or more supporting affidavits otherwise
13 corroborating the application.

14 (3) Corroborative information obtained and reduced to
15 writing by the clerk or the clerk's designee, but only when
16 circumstances make it infeasible to comply with, or when the
17 clerk considers it appropriate to supplement the information
18 supplied pursuant to, either subparagraph (1) or (2).

19 ~~2.~~ 3. Prior to the filing of an application pursuant to
20 this section, the clerk or the clerk's designee shall inform
21 the interested person referred to in subsection 1 about the
22 option of requesting a preapplication screening assessment
23 pursuant to section 229.5A.

24 4. The supreme court shall prescribe rules and establish
25 forms as necessary to carry out the provisions of this section.

26 Sec. 45. Section 229.6A, subsection 1, Code 2013, is amended
27 to read as follows:

28 1. Notwithstanding section 229.11, the juvenile court has
29 exclusive original jurisdiction in proceedings concerning
30 a minor for whom an application ~~for involuntary admission~~
31 is filed under section 229.6 or for whom an application for
32 voluntary admission is made under section 229.2, subsection 1,
33 to which the minor objects. In proceedings under this chapter
34 concerning a minor, notwithstanding section 229.11, the term
35 "court", "judge", or "clerk" means the juvenile court, judge, or

1 clerk.

2 Sec. 46. Section 229.7, Code 2013, is amended to read as
3 follows:

4 **229.7 Service of notice upon respondent.**

5 Upon the filing of an application ~~for involuntary~~
6 ~~hospitalization~~ pursuant to section 229.6, the clerk shall
7 docket the case and immediately notify a district court judge,
8 district associate judge, or magistrate who is admitted to the
9 practice of law in this state, who shall review the application
10 and accompanying documentation. If the application is adequate
11 as to form, the court may set a time and place for a hearing
12 on the application, if feasible, but the hearing shall not be
13 held less than forty-eight hours after notice to the respondent
14 unless the respondent waives such minimum prior notice
15 requirement. The court shall direct the clerk to send copies
16 of the application and supporting documentation, together with
17 a notice informing the respondent of the procedures required
18 by this chapter, to the sheriff or the sheriff's deputy for
19 immediate service upon the respondent. If the respondent
20 is taken into custody under section 229.11, service of the
21 application, documentation and notice upon the respondent shall
22 be made at the time the respondent is taken into custody.

23 Sec. 47. Section 229.8, unnumbered paragraph 1, Code 2013,
24 is amended to read as follows:

25 As soon as practicable after the filing of an application
26 ~~for involuntary hospitalization~~ pursuant to section 229.6, the
27 court shall:

28 Sec. 48. Section 229.9, Code 2013, is amended to read as
29 follows:

30 **229.9 Respondent's attorney informed.**

31 The court shall direct the clerk to furnish at once to the
32 respondent's attorney copies of the application ~~for involuntary~~
33 ~~hospitalization of the respondent~~ filed pursuant to section
34 229.6 and the supporting documentation, and of the court's
35 order issued pursuant to section 229.8, subsection 3. If the

1 respondent is taken into custody under section 229.11, the
2 attorney shall also be advised of that fact. The respondent's
3 attorney shall represent the respondent at all stages of the
4 proceedings, and shall attend the hospitalization hearing.

5 Sec. 49. Section 229.21, subsection 2, Code 2013, is amended
6 to read as follows:

7 2. When an application for involuntary hospitalization
8 ~~under this chapter or an application~~ for involuntary commitment
9 or treatment of persons with substance-related disorders under
10 ~~sections~~ section 229.6 or 125.75 ~~to 125.94~~ is filed with the
11 clerk of the district court in any county for which a judicial
12 hospitalization referee has been appointed, and no district
13 judge, district associate judge, or magistrate who is admitted
14 to the practice of law in this state is accessible, the clerk
15 shall immediately notify the referee in the manner required by
16 section 229.7 or section 125.77. The referee shall discharge
17 all of the duties imposed upon the court by sections 229.7
18 to 229.22 or sections 125.75 to 125.94 in the proceeding so
19 initiated. Subject to the provisions of subsection 4, orders
20 issued by a referee, in discharge of duties imposed under
21 this section, shall have the same force and effect as if
22 ordered by a district judge. However, any commitment to a
23 facility regulated and operated under chapter 135C shall be in
24 accordance with section 135C.23.

25 Sec. 50. Section 229.22, subsection 3, Code 2013, is amended
26 to read as follows:

27 3. The chief medical officer of the facility or hospital
28 shall examine and may detain and care for the person taken
29 into custody under the magistrate's order for a period not
30 to exceed forty-eight hours from the time such order is
31 dated, excluding Saturdays, Sundays and holidays, unless the
32 order is sooner dismissed by a magistrate. The facility or
33 hospital may provide treatment which is necessary to preserve
34 the person's life, or to appropriately control behavior by
35 the person which is likely to result in physical injury to

1 the person's self or others if allowed to continue, but may
 2 not otherwise provide treatment to the person without the
 3 person's consent. The person shall be discharged from the
 4 facility or hospital and released from custody not later than
 5 the expiration of that period, unless an application ~~for the~~
 6 ~~person's involuntary hospitalization~~ is sooner filed with the
 7 clerk pursuant to section 229.6. Prior to such discharge the
 8 facility or hospital shall, if required by this section, notify
 9 the law enforcement agency requesting such notification about
 10 the discharge of the person. The law enforcement agency shall
 11 retrieve the person no later than six hours after notification
 12 from the facility or hospital but in no circumstances shall the
 13 detention of the person exceed the period of time prescribed
 14 for detention by this subsection. The detention of any
 15 person by the procedure and not in excess of the period of
 16 time prescribed by this section shall not render the peace
 17 officer, physician, facility, or hospital so detaining that
 18 person liable in a criminal or civil action for false arrest or
 19 false imprisonment if the peace officer, physician, facility,
 20 or hospital had reasonable grounds to believe the person so
 21 detained was mentally ill and likely to physically injure
 22 the person's self or others if not immediately detained, or
 23 if the facility or hospital was required to notify a law
 24 enforcement agency by this section, and the law enforcement
 25 agency requesting notification prior to discharge retrieved the
 26 person no later than six hours after the notification, and the
 27 detention prior to the retrieval of the person did not exceed
 28 the period of time prescribed for detention by this subsection.

29 Sec. 51. Section 229.24, subsection 1, Code 2013, is amended
 30 to read as follows:

31 1. All papers and records pertaining to any involuntary
 32 hospitalization or application ~~for involuntary hospitalization~~
 33 pursuant to section 229.6 of any person under this chapter,
 34 whether part of the permanent record of the court or of a file
 35 in the department of human services, are subject to inspection

1 only upon an order of the court for good cause shown.

2 Sec. 52. Section 229.27, subsection 2, Code 2013, is amended
3 to read as follows:

4 2. The applicant may, in initiating a petition ~~for~~
5 ~~involuntary hospitalization of a person~~ under section 229.6 or
6 at any subsequent time prior to conclusion of the involuntary
7 hospitalization proceeding, also petition the court for a
8 finding that the person is incompetent by reason of mental
9 illness. The test of competence for the purpose of this
10 section shall be whether the person possesses sufficient mind
11 to understand in a reasonable manner the nature and effect
12 of the act in which the person is engaged; the fact that a
13 person is mentally ill and in need of treatment for that
14 illness but because of the illness lacks sufficient judgment
15 to make responsible decisions with respect to the person's
16 hospitalization or treatment does not necessarily mean that
17 that person is incapable of transacting business on any
18 subject.

19 Sec. 53. Section 602.1209, subsection 16, Code 2013, is
20 amended to read as follows:

21 16. Prescribe practices and procedures for the
22 implementation of the preapplication screening assessment
23 program referred to in ~~section~~ sections 125.75A and 229.5A.

24 Sec. 54. REPEAL. Sections 125.75B and 229.2A, Code 2013,
25 are repealed.

26 Sec. 55. STUDY — BED AVAILABILITY TRACKING SYSTEM. The
27 department of human services shall conduct a study regarding
28 the possible development of a hospital bed tracking system in
29 order to most efficiently and effectively serve the needs of
30 persons suffering from mental illness. The department shall
31 submit a report of the study and make recommendations to the
32 governor and the general assembly by December 16, 2013.

33 EXPLANATION

34 DIVISION I — DEPARTMENTAL RESPONSIBILITY FOR MENTAL HEALTH
35 ADVOCATES. This division establishes an office of mental

1 health advocate in the department of human rights and specifies
2 duties for the administrator of the office. A transition
3 provision directs the department to commence organizational
4 activities during FY 2013-2014 as necessary to fully implement
5 the new departmental office and all of the bill's division
6 II provisions on July 1, 2014. The department is granted
7 emergency rulemaking authority if necessary to achieve the
8 implementation date.

9 This division takes effect July 1, 2013.

10 DIVISION II — IMPLEMENTATION. This division provides for
11 implementation of the change in administration of the mental
12 health advocates on July 1, 2014, including conforming changes
13 to various Code sections.

14 Code section 225C.4, relating to the duties of the
15 administrator of the mental health and disability services
16 division of the department of human services, is amended
17 to correct a reference to mental health advocates and to
18 include the department of human rights in a duty for providing
19 consultation and technical assistance to advocates.

20 Code section 226.31, relating to an application for a court
21 order for transfer of a dangerous patient from a state mental
22 health institute, is amended to correct a reference to the
23 advocate to be included in a notice of a hearing.

24 Code section 229.2, relating to admissions of juvenile
25 mental health patients, is amended to correct a reference to
26 the appointment of a mental health advocate for juveniles
27 involuntarily committed.

28 Code section 229.9A, relating to requirements for the clerk
29 of court to notify a mental health advocate of application
30 and order information, is amended to correct a reference to
31 the advocate, to eliminate a reference to county of legal
32 settlement, and to authorize the advocate to attend any court
33 hearing involving the respondent.

34 Code section 229.12, relating to the procedure for
35 hospitalization hearings, is amended to correct a reference to

1 the advocate and to eliminate a reference to county of legal
2 settlement.

3 Code section 229.14A, relating to notice requirements
4 for involuntary commitment placement orders and transfers,
5 is amended to require notice to correct a reference to the
6 advocate and to eliminate a reference to a procedure for
7 withdrawal of an attorney that is revised by the bill.

8 Code section 229.15, relating to the periodic reports
9 required when hospitalization of a patient is continued by
10 court order, is amended to require the report to be provided to
11 the advocate.

12 Code section 229.19, the primary Code provision for mental
13 health advocates, is extensively revised to insert the new
14 department of human rights' office of mental health advocate
15 in place of the counties. The court is required to notify
16 the office when a patient is found to be seriously mentally
17 impaired and the office is required to appoint the advocate.
18 A procedure for continuation of the respondent's attorney
19 when a patient is found to be seriously mentally impaired is
20 revised to require the attorney to cooperate with the patient's
21 advocate instead of assuming the duties of an advocate.
22 Responsibility for compensation of the mental health advocate
23 is shifted to the office and the office is required to recover
24 the costs of the mental health advocate if the person is not
25 indigent.

26 Code section 229.25, relating to exceptions for release of
27 medical records maintained by a hospital or other treatment
28 facility, is amended to correct a reference to the advocate
29 regarding the release of the records to the advocate when the
30 patient has signed a waiver.

31 The bill includes a transition section outlining sick time,
32 vacation leave, and health, life, and disability insurance
33 rights of county employees who become employees of the
34 department of human rights in accordance with the bill.

35 This division takes effect July 1, 2014.

1 DIVISION III — INVOLUNTARY COMMITMENTS — PERSONS WITH
2 INTELLECTUAL DISABILITIES. Current Code chapter 222 contains
3 both a voluntary admission process and an involuntary
4 commitment process to provide treatment, training, instruction,
5 care, habilitation, and support of persons with an intellectual
6 disability. Current law also provides that if a guardianship
7 is proposed for a person with an intellectual disability,
8 such proceedings shall be initiated and conducted pursuant
9 to Code chapter 633 (provisions under probate code). This
10 division repeals provisions in Code chapter 222 relating to
11 the involuntary commitment process and makes conforming Code
12 changes. This division takes effect July 1, 2014.

13 DIVISION IV — INVOLUNTARY COMMITMENTS — SUBSTANCE-RELATED
14 DISORDERS AND MENTAL ILLNESS.

15 PREAPPLICATION SCREENING ASSESSMENT. This division provides
16 that prior to filing an application for involuntary commitment
17 or treatment under Code chapter 125 (substance-related
18 disorder) or for involuntary hospitalization under Code chapter
19 229 (mental illness), the clerk of the district court or the
20 clerk's designee shall inform the interested person who intends
21 to file the application about the option of requesting a
22 preapplication screening assessment through a preapplication
23 screening assessment program, if available. The state court
24 administrator is required to prescribe practices and procedures
25 for implementation of the preapplication screening assessment
26 program.

27 Conforming Code changes are made relating to the duties of
28 the district court clerk and the state court administrator.

29 APPLICATION FOR INVOLUNTARY COMMITMENT OR TREATMENT OR
30 INVOLUNTARY HOSPITALIZATION. Current law provides for separate
31 applications for the involuntary commitment or treatment of a
32 person with a substance-related disorder under Code chapter
33 125 and for the involuntary hospitalization of a person with a
34 serious mental impairment under Code chapter 229. The division
35 combines both applications and allows an interested person

1 to file one application under either Code chapter 125 or 229
2 with the clerk of the district court of the county where the
3 respondent is located or where the respondent resides. The
4 interested person is required to state on the application
5 the person's belief that the respondent presents a danger to
6 self or others and lacks judgmental capacity due to either a
7 substance-related disorder or a serious mental impairment. The
8 applicant must also state facts in support of each claim and,
9 consistent with current law, provide a written statement of a
10 licensed physician, one or more supporting affidavits, or any
11 other corroborative information as determined by the clerk of
12 the district court in support of the application. The division
13 requires the supreme court to adopt rules and establish forms
14 as necessary to carry out the amended provisions.

15 The bill makes conforming changes by amending certain
16 provisions in both Code chapters 125 and 229 that make
17 references to the filing of separate commitment applications
18 and repeals provisions allowing for dual filings of both
19 applications.

20 STUDY — BED AVAILABILITY TRACKING SYSTEM. This division
21 requires the department of human services to conduct a study
22 regarding the possible development of a hospital bed tracking
23 system in order to most efficiently and effectively serve
24 the needs of persons suffering from mental illness. The
25 department is required to submit a report of the study and make
26 recommendations to the governor and the general assembly by
27 December 16, 2013.